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# GAINING GROUND: WOMEN AND TERRITORIAL POWER-SHARING IN PEACE PROCESSES



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# GAINING GROUND: WOMEN AND TERRITORIAL POWER- SHARING IN PEACE PROCESSES



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# THE PURPOSE OF THE GENDER BRIEFING SERIES

This brief is part of a Gender Briefing Series to support women's meaningful participation and the integration of gender perspectives in peace processes that aim to end violent intra-state conflict.

The key target audience is women, gender equality advocates and others engaged in peace processes, who wish to influence negotiations with a view to: (a) addressing the particular experiences of women during conflict, and (b) achieving lasting peace process outcomes that will improve women's lives and the lives of those around them.

Using a comparative approach, the briefs:

- Establish the importance of the issue from a gender equality perspective and the importance of women's meaningful engagement for effectively addressing it.
- Identify key issues with reference to the inclusion of women and their gender-related and gender-specific dimensions.
- Suggest ways of influencing change in peace processes, including identifying possible entry points and overcoming tensions with competing strategies.
- Highlight through examples how integrating gender perspectives in peace agreements not only benefits women, but also helps diversify perspectives and proposed solutions, thereby contributing more generally to progress in peace processes for all.
- Provide quantitative and qualitative data from peace agreements, using examples from across the world as evidence and inspiration for action.

- Offer analysis that provides for principled approaches to inclusion – grounded in international legal standards – with an indication of how these can be linked to pragmatic political arguments.

Too often, formal peace negotiations approach women's meaningful participation and gender equality as a secondary and apolitical concern to 'stopping the war'. Arguments are often made that the need for political pragmatism to end the conflict must singularly prevail. Yet both concerns are inextricably linked to one another for sustainable peace. The approach of these briefs supports engagement in peace processes rooted in the principle of gender equality, while recognizing that provisions designed to achieve equality in any context will be negotiated politically in practice. To influence change, women will need to influence a range of actors, including those who may not see gender equality as central. Women themselves will also have diverse political views and perspectives. The briefs therefore offer comparative analysis, examples and framing questions to support women and others to develop proposals suitable to their own context, rather than prescribing any one approach.

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# INTRODUCTION

Peace processes often focus on how to share or split power between the political and military groups at the heart of the conflict, in order to accommodate the wider identity and political groups they represent. Arrangements for sharing or splitting power can focus on political institutions, economic arrangements, military arrangements, or territory (or different combinations of these).<sup>1</sup>

When peace negotiations propose territorial power-sharing, this restructuring of the state presents opportunities for inclusion, and conversely, some inclusion trade-offs, for women to reflect on. Discussions of territory, power, and autonomy in peace processes often focus on the opportunities which these arrangements provide for the inclusion of ethnic, national or indigenous groups, and sometimes for political/military movements which operate from a particular geographic area. Despite the risk of destabilizing post-conflict democracies (Graham, Miller, and Strøm, 2017), these arrangements often emerge as the only realistic option after violent intra-state conflict. The frequency with which territorial divisions of power are agreed

on in peace processes means that women involved in these processes are likely to engage with this form of power-sharing.

This Brief presents the different forms of territorial power-sharing that arise in peace agreements, and the potential opportunities and risks for women's inclusion that these can entail. It proposes critical questions that women could ask of peace processes if territorial power-sharing is likely to be negotiated, and highlights strategies and tactics that women and allies have used in conflict-affected contexts to navigate inclusion issues.

# PART I: OVERVIEW

## What is territorial power-sharing?

Territorial power-sharing can be understood as the sharing and delegation of the central government's powers and responsibilities to geographical units. It can include restructuring from a centralised to a federal state, or moving decision-making power from a central government to regional or local governments. It can also include delegation of forms of political, fiscal, or administrative self-governance to regional or local groups who make claims to govern a particular area of territory.

There are different forms of territorial power-sharing. Federalism, confederalism, autonomy, devolution, and decentralization all entail different approaches to territorial self-governance. In reality, states often use complex combinations of multi-level governance to share territorial power (Norris, 2008: 157-185). Key principles of federalism are **self-rule** (significant decision-making powers over areas of vital interest for groups) and **shared rule** (mechanisms for groups to participate in decision-making at the centre, often through a second chamber in the central legislature) (Elazar, 1987).

Degrees of power-sharing vary across different cases, and can involve division of powers between governing bodies at different levels. For example, the central government may retain complete control over immigration policy, but devolve powers over healthcare and education to a regional government. This division of powers may pertain to just one part of a state, or across several territorial entities, depending on the context. In states where multiple entities have devolved powers, territorial power sharing can be symmetric or asymmetric – entities may have the same degree of control over issues, or varying degrees of decision-making power over the same policy areas.

In deeply divided societies, the choice of terminology can be highly contested, as people can associate different meanings and expectations to the same concept. For some, territorial autonomy offers self-governance and protection for minority groups; for others, it implies the fragmentation and break-up of the state. When territorial power sharing is negotiated, interested parties may need time to unpack and explore different terms and concepts.

## Why is territorial power-sharing important in peace processes?

Territorial power-sharing can function as a form of group accommodation in deeply divided societies. These are societies which are heavily fragmented along lines of group identity, such as (but not exclusively) ethnic, national, religious, linguistic, or cultural markers. Territorial power-sharing is frequently suggested as an option for post-conflict state design, for conflicts framed as being fought along such identity cleavages, when majority and minority groups are territorially concentrated.

Although predominant in identity conflicts, even in conflicts where questions of identity are less salient, there may also be non-state armed groups – located in particular regions or locales reaching for a form of state-rebel accommodation – turning to territorial power-sharing arrangements as a means of securing an end to conflict. Here, territorial power-sharing can aim to accommodate competing ideologies and interests as to the future nature of the state.

Where territorial control and group identity are intrinsically linked, territorial power-sharing acknowledges that different groups have diverging ideas of how to govern, but are also located within, or contest ownership of, the same territory. Rather than seeking to remove this impasse by changing international borders, territorial power-sharing offers states and non-state actors a way of managing contested territory whilst maintaining the inviolable nature of the state; although the means of agreeing on and implementing territorial power-sharing can be fraught and prolonged.



Out of 1518 peace agreements from 1990 to 1 January 2016, 14 per cent contain provisions for territorial power-sharing.<sup>2</sup> These include provisions to establish or modify:

- Federal or similar systems of multi-level governance;
- Local/municipal governments;
- Autonomous regions; and
- Other modalities of granting special territorial status.

Although framework and comprehensive agreements more frequently provide for territorial power-sharing

than other types of peace agreements (such as ceasefire or implementation pacts), references to territorial self-governance can be found in all stages of peace processes. **This means that those concerned with engendering territorial power-sharing must be prepared to engage with and intervene at all stages of the process, as issues of territory can be discussed throughout, particularly if there is a strong territorial element to the conflict.** Pushing for more gendered considerations of territorial power-sharing from an early stage may help women, minorities, and their allies to negotiate more inclusive modalities of power-sharing at later agreement stages.<sup>3</sup>

# PART II: A GENDER AND WOMEN'S RIGHTS ANALYSIS OF TERRITORIAL POWER-SHARING IN PEACE AGREEMENTS

Provision for territorial power-sharing in peace agreements ranges from weak, rhetorical affirmations, to a new geographic configuration of power, to detailed and comprehensive restructuring of the state at multiple levels of governance. Whilst not all territorial power-sharing in peace processes results in an overhaul of state institutions and territorial boundaries, any form of devolution can affect women living within regional jurisdictions. It is important therefore for women, as citizens, to consider how proposals may affect the way their lives are governed in a post-conflict state, as they may be able to organize strategically to influence peace negotiations and the configuration of new arrangements (Tripp, 2018).

New divisions of power within a state change the state's self-definition and its narrative of inclusion both at the centre and at the regional level in important ways. There are several key reasons why women might be concerned with how territorial power-sharing is negotiated and agreed, all of which present potential opportunities and disadvantages.

For instance, there is potential for women to seek what is sometimes termed 'federal advantage' – that is, where women can manipulate political opportunity structures presented by territorial power-sharing (under certain conditions) to advance their interests, which otherwise might not be possible in a unitary state (Vickers, 2011). Research on federalism and devolution in states such as Canada, Australia, Germany, the U.S, and the U.K, has questioned whether federal states provide more space for women's representation or organization (see Vickers and Chappell (eds.), 2011; Vickers, Chappell, and Meier (eds.), 2013. At the same time, other research on female representation in national legislatures in federations and in centralized states argues that federations can 'facilitate the adoption of gender quotas' and 'allow women to enter

parliament earlier than unitary states' (Stockemer and Tremblay, 2015). This potential federal advantage, however, depends on several factors that women should consider and mobilize around (discussed below). These factors also raise possible negative consequences of territorial power-sharing, which women involved in peace processes need to be aware of.

## Participation and representation

### Quotas and reserved seats

Creating or restructuring institutions at multiple levels of governance may present women with opportunities to increase their '**descriptive representation**' – that is, formal provision for women's inclusion through institutional design that pushes for women to participate meaningfully. A critical factor here is the use of legally-binding quotas or reserved seats in peace agreements that agree to form or reform regional, provincial, municipal and local legislatures, executives and judiciaries, including second chambers created at the national level when adopting a federal system. This opportunity can be enhanced if new

regional institutions include quotas or other mechanisms for effective participation of women. If quotas are non-existent in national institutions, women can put pressure on national-level institutions and central governments to adopt quota systems, or other forms of representation. Feminist activism in Spain suggests that women can use quotas at regional levels as an access point to challenge resistance to quotas at the national level, by **‘going level-shopping’** – targeting activism at different forums across various levels of governance – until state-wide quotas can be passed as part of national equality legislation. Activists targeted regional political parties and cabinets to include a system that alternated men and women candidates in party lists (known as ‘zipping’) as part of their regional electoral laws, even when the central government in Spain opposed adopting gender quotas. (Alonso and Verge, 2014). However, regional quotas for women in quasi-federal states are quite rare, and level-shopping may not be an option for women in other contexts.

There is evidence of **regional reserved seats** for women in several peace agreements to date:<sup>4</sup>

- In [Bangladesh](#), the 1997 agreement with the National Committee on Chittagong Hill Tracts agreed 3 reserved seats for women (both tribal and non-tribal) in each of the Hill District Councils and 12 seats for tribal women (and 1 for non-tribal) in the Chittagong Hills Tracts Regional Council.
- The 2003 Memorandum of Settlement on Bodoland Territorial Council in [India](#) requires at least two nominated members of the council to be women. Similarly, the composition of the Bangsamoro council of leaders includes a representative of women, as proposed in the [Philippines](#) by the 2013 Annex on Power-Sharing.
- The 2015 Constitution of [Nepal](#) contains the most detailed quota provisions for women in provincial and local legislatures, which includes provisions for addressing potential barriers to electing women from political parties.

**Within peace agreements without quotas, there are some provisions which commit to ‘promote’, ‘guarantee’ or ‘highly recommend’ the participation of women in sub-national institutions, or as representatives of territorially-concentrated groups in national institutions.** These include Territorial Planning Councils ([Colombia](#)), local and regional institutions ([Guatemala](#)), autonomous government ([Bougainville](#)), and as representatives of a territorially-concentrated

**[Nepal, Constitution of Nepal, 20 September 2015, Part 14: Provincial Legislature, 176. Formation of the Provincial Assembly: \(9\).](#)**

Notwithstanding anything contained elsewhere in this Article, at least one third of the total number of members to be elected from each political party to the Provincial Assembly shall have to be women. In case at least one third of the candidates elected from a political party pursuant to section (a) of clause (1) are not women, the political party shall have to make provision of electing at least one third women while electing members pursuant to section (b) of the same clause.

group in the National Assembly ([Sudan](#)). Although all of these provisions do acknowledge the importance of women being adequately represented at all levels of the state, commitments are more liable to dismissal during implementation of the agreements, as they are not as detailed or concrete. This raises questions of enforcement during implementation phases of peace processes, and how women can most effectively organize to ensure that commitments to meaningful participation are upheld. Security is also an important consideration – although peace agreements may provide for quotas or reserved seats for women, without adequate security measures in place for women legislators, they might be unable to participate in regional institutions, leaving participation mechanisms symbolic but ineffective.

**Another issue to be aware of regarding quotas and reserved seats is that, like other forms of inclusive provisions, they can simply disappear from peace process agendas.** Once off the table, it can be difficult for activists to regain momentum. In [Yemen](#), the 2014 National Dialogue Conference (NDC) provided a quota for at least 30 per cent representation of women in the proposed transitional justice commission, which would be split 50/50 between women from the South and the North. Subsequent events in the peace process and conflict, however, led to the abandonment of the NDC proposals, and although Yemeni women activists and their allies are currently struggling to push for representation in the peace talks, quotas have not appeared in any agreement signed since.

## Electoral system

Another important aspect for women in the institutional design of regional institutions proposed in peace agreements is the type of electoral system to be instituted. If women in a given context have preferences for one type of electoral system over the other for regional governments, it is important to try to embed this in the peace agreement commitments, or in a subsequent law. Some peace agreements contain provision regarding the electoral system, showing how it is sometimes negotiated as part of the peace process, although, detail is often reserved for subsequent election laws, or refers to existing laws. For example, the 2005 Memorandum of Settlement in [India](#) simply stipulates that elections to the Darjeeling Gorkha Hills Council and to Panchayat bodies in the DGHC area be in accordance with the relevant provisions of the Indian constitution and existing laws of the central and federal state governments.

**There is a predominant consensus among academics and practitioners that women achieve better descriptive representation in central legislatures that use proportional representation electoral systems, rather than majority or plurality systems.** In federal states, there is evidence to suggest that using proportional electoral systems is a positive factor for increased representation by women, but that the choice of an open or closed list system may affect the number of women elected in regional elections (Jones and Navia, 1999), depending on the context. Women may need to assess the likely support they will receive from parties and voters, such as possible gender bias against female candidates on open lists, or decision-making within political parties that rank female candidates in worse positions on closed lists (see further, Allik, 2015).

Commitments to using proportional representation at the central and regional levels appear in several of the Nepali peace agreements. However, the 2015 Constitution of [Nepal](#) goes further than most by agreeing that the representation of women (and other minorities) will be elected to the Provincial Assembly (and the central House of Representatives) using a closed list proportional representation system, in accordance with federal law (Part 14, 166.1). In [Bosnia and Herzegovina](#), the 1994 Declaration on the Constitution of the Federation provided that legislators at the canton level would be elected via an open list proportional representation electoral system, although it makes no specific references to a candidate's gender.<sup>5</sup>

The following provision for [Yemen](#) is an example of an agreement which provides for women's participation through proportional representation and using closed lists:

### [Yemen, National Dialogue Outcomes Document, 25 January 2014, Chapter two, Section one, Working Group on State Building and Constitution-Principles and Foundations, Sixth.](#)

Decisions Relevant to the Electoral System:

1. The electoral system is (the closed proportional list) system.
2. Political constituencies shall adhere by arranging their electoral lists to ensure access for at least 30% of women to the elected councils. The order of male and female candidates in the list shall be as follows: At least one woman for every thirty male candidates. Lists by political constituencies shall not be accepted if they are in contravention of the law.

The majority of peace agreement provisions for non-central elections provide for free and fair elections to be held for all or some local government bodies, but do not offer further detail beyond that commitment. Peace agreements in 1995 for the internationally-administered Eastern Slavonia, Baranja and Western Sirmium area of [Croatia](#) and agreements which commit to the timing of elections in regions, governorates and municipalities in [Iraq](#), are good examples of this basic commitment. The lack of detail in these agreements suggests that there is space for feminist interventions in peace processes regarding choice of electoral system. If no such opportunity becomes evident, however, efforts may be better directed to processes that draft electoral legislation, rather than peace agreements.

## Questions regarding participation and representation that women can ask of the peace process

- Is territorial sub-division being discussed, both within and outside of the formal process? Do women from different ethnic or national communities have different views on territorial power-sharing proposals?

- In what ways is territorial sub-division likely to affect women's rights at the regional or local levels, and the central or federal level? Will differently-located women be affected in distinctive ways?
- Have previous agreements provided for gender quotas or reserved seats in regional or local institutions? If so, why was this lost from the agenda?
- Are there existing gender quotas at the central level? Can these be used as a precedent to push for gender quotas in regional or local institutions?
- Does the peace agreement draft include details of the proposed electoral system? If it suggests proportional representation, is this via open or closed lists?

## Human Rights and Equality

Territorial power-sharing is often advocated as a way of guaranteeing minority rights to self-governance, through devolution of powers over certain issues of particular concern to territorially-concentrated ethnic or indigenous minorities (often framed using rights-based language). This does not, however, necessarily result in complete protection of women's basic rights. In fact, devolution of powers to regional or local entities can sometimes create or entrench barriers to women's rights.

Powers shared between the centre and regional or local entities can include executive, legislative, and or administrative capacities. In peace agreements, these are sometimes provided in detailed lists, which include development, health, education, social welfare, cultural affairs (including language and religious practice), or are discussed in regards to the process of devolving powers, without specifying which powers.

For women in peace processes this raises several issues. Multi-level systems can provide opportunities for women to 'level-shop' or 'forum-shop' in areas of human rights promotion, but they can also result in a **'territorial lottery'**, whereby women in certain areas have worse access to services and funding as a result of asymmetric policies. Related to this is the existence of **legal pluralism** – the co-existence or overlapping of different legal orders -, which is also important for women to consider as it may create obstacles to women's rights and access to justice (UN Women, 2011).

## Violence against women and reproductive rights

Struggles for reproductive rights and gender-based violence prevention offer examples of such opportunities and restrictions. In the United Kingdom, abortion law is a devolved matter. This has restricted the right of women in Northern Ireland to access free, safe and legal abortions, unlike in Wales and Scotland. Activists have attempted to circumvent the arrangement by campaigning to use devolved powers over health in Scotland to provide free abortions to women who travel from Northern Ireland. Activists have also brought challenges to the United Kingdom Supreme Court around the devolved nature of abortion law, with some limited success. Despite a recent decision that the National Health Service will provide free abortions for women who travel to England, women in Northern Ireland still have asymmetric reproductive rights under a decentralized system (Thomson, 2017). In Australia, activists have used the opportunity of multi-level governance to push for more gendered responses to violence against women, by utilizing state authority over civil and criminal law, even when a conservative Commonwealth federal government has been less proactive on the issue (Chappell & Costello, 2011).

Reproductive rights are only mentioned in seven out of 1518 peace agreements since 1990, and most either restrict a woman's autonomy over her reproductive rights, or are designed to promote maternity and motherhood. The following peace agreement constitution for [Somalia](#) restricts access to abortion in a rights framework that applies across all units of the federal state:

[Provisional Constitution of the Federal Republic of Somalia, 1st August 2012, Title Two: Rights, Basic Personal Liberties and Limitations, Article 15. Liberty and Security of the Person \(5\).](#)

Abortion is contrary to Shari'ah and is prohibited except in cases of necessity, especially to save the life of the mother.

Additionally, references in peace agreements to reproduction are mainly included as basic or fundamental rights to maternity and child care across all levels of the state, although responsibility for motherhood is sometimes listed as a joint power between central and regional governments. In [Chechnya](#), the 1996 Draft Treaty provides that the ‘coordination of health-care issues; the protection of the family, motherhood, fatherhood, and childhood’ all come under the joint jurisdiction of the Russian Federation and the Chechen Republic (Article 6, 7.).

The most explicit commitment to reproductive rights at central and regional levels is in the following agreement for [Mexico](#):

[Mexico, Actions and Measures for Chiapas Joint Commitments and Proposals from the State and Federal Governments, and the EZLN, 16 February 1996, Situation, Rights and Culture of Indigenous Women, Paragraph 8.](#)

Compliance with the international pacts and conventions which have been entered into by the Mexican government. Of particular importance here, is Convention 169 of the ILO, the Vienna Declaration on Human Rights referring to the elimination of any form of discrimination against women, and the Agreement of the World Conference on Population and Development referring to the health and reproductive rights of women as long as these do not contravene the basic principles of the General Constitution of the Republic.

## Legal pluralism

The territorial lottery can be made harder in peace agreements that provide for customary or traditional law in regional or local entities, in cases of legal pluralism that restrict women’s rights. There are several examples in peace agreements where special jurisdiction for non-central levels involves the use of customary law as a mechanism to protect minority self-governance, particularly for indigenous peoples. The 1991 Constitution of [Colombia](#) provided for indigenous peoples to exercise governance functions within particular territorial areas in accordance with

their own laws and functions, although this power was limited, as these functions could not be contrary to the Constitution and the laws of the Republic (Article 248). Customary courts were proposed for the [Bodoland](#) Autonomous Council area in India in 1993, and the 2001 [Bougainville](#) Peace Agreement in Papua New Guinea agrees to establish a commission to examine giving the autonomous government powers to integrate customary law.

Women’s rights advocates have questioned the exclusive jurisdiction of Shari’a law in some regions. They claim that this not only institutionalizes differences in women’s rights between regional or local entities, but also between women under different legal systems *within* these entities, all while not applying to all citizens within a territory regardless of their faith.

For example:

In [Aceh](#), Indonesia, women activists have struggled with implementation of commitments to self-government granted by the 2005 Helsinki Memorandum of Understanding, particularly when, in 2009, the provincial parliament passed an Islamic Criminal Code that included corporal punishment for adultery, criminalized homosexuality, and strict morality codes regulating women’s bodies and behaviour. Although Shari’a law was not new to Aceh, further decentralization in the country emboldened the conservative provincial parliament to push through further reforms to the legal system (Afrianty, 2015).

In the [Philippines](#), the 2012 Framework Agreement on the Bangsamoro grants the Bangsamoro regional government competence over the Shari’a justice system, with the supremacy of Shari’a and its application only to Muslims in the region. The National Network for Muslim Women’s Rights have argued that the application of Shari’a only to Muslims within the region is being used to justify Muslim women’s lack of autonomy and inequality within Mindanao (Solamo-Antonio, 2005).

The extent of self-rule in both cases makes it difficult for women to utilize opportunities for justice and equality at other levels of government, particularly as territorial power-sharing was agreed as a way to end violent insurgencies against the state, and protecting women’s rights was not a priority.



**In some cases, where territorial power-sharing has infringed, rather than protected, women's rights, activists have used international human rights law and frameworks to challenge restrictive regional or local governments.** Activists in Northern Ireland have used the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to request an inquiry into abortion law in Northern Ireland, with the request still outstanding. Here, local activists targeted international law that the central government has ratified, again using multiple levels of territorial power-sharing to reform the regional level, although this strategy still requires support from both national and international mainstream human rights advocates (O'Rourke, 2016).

**Regional constitutions could be a way to navigate this, and may be useful to consider, although how effective in practice depends on the local legal culture.** Such constitutions, for example, could provide bills of rights which regional executives and legislatures must adhere to, or incorporate international human rights law (which occurs in several peace agreements) – although the wider constraints of using international law to affect domestic change would still apply. An example of the latter is the 1994 Washington Agreement in [Bosnia and Herzegovina](#), which incorporated the 1979 International Convention on the Elimination of Discrimination Against Women and the 1957 Convention on the Nationality of Married Women into the Federation Constitution, adopted on June 24<sup>th</sup> 1994. Another example is the Sudan/Darfur Peace Agreement, which although not a regional constitution, provides the following guarantees at all levels of the state:

[Sudan/ Darfur, Darfur Peace Agreement, 5 May 2006, Article 3: Human Rights and Fundamental Freedoms, 28. \(a\).](#)

Women and men shall enjoy all civil and political rights enshrined in the International Covenant on Civil and Political Rights, as well as all economic, social and cultural rights in the International Covenant ratified by the GoS.

It is important to note that ratifying international human rights law at regional or local levels does not guarantee that regional governments will implement or respect these standards. Still, they may offer a platform for women activists to frame and raise challenges

against discrimination and violation of women's rights in these regional entities (see Gender Briefing Series: Women, Constitution-making and Peace Processes).

### Questions regarding human rights and equality that women can ask of the peace process

- Does a proposed regional government have absolute rights guarantees pertaining to human rights, reproductive rights, and rights to equality and non-discrimination?
- Is there an accessible dispute mechanism that could be used to mount challenges against violations of women's rights within regional or local entities?
- Could legal pluralism create barriers to women's rights at regional or local levels?
- Are there proposed mechanisms for regional governments to ratify and implement international legal frameworks for women's rights and equality (e.g. CEDAW)?

### Identity

The emphasis on group identity – be it ethnic, national, or indigenous – in the adoption of territorial power-sharing in peace agreements, raises several important considerations for women. Ethnic and/or national identities can be framed in highly gendered terms, which convey particular expectations of women's roles in nation-building projects and ethnic conflict. This means that any governance arrangements which prioritize ethnic and/or national identities should be viewed through a gendered lens.

### Women as members of local minorities

**Firstly, women from various identity groups may experience territorial power-sharing differently, particularly if they are members of a minority group in regional or local entities (sometimes referred to as 'local' minorities).**<sup>6</sup> This can be the case in regional nation-building projects, which may promote progressive gender politics even when the central government does not, such as for example, in the engendering amendments to the Iraqi Criminal Code by the Kurdish Regional Government (Joly & Bakawan, 2016). Importantly, however, the differing socio-economic status of women in Iraqi-Kurdistan still means discrepancies between who actually benefits from these reforms, and who does not. In the case of Canada, nation-building projects which promoted progressive gender politics in the 1970s as a way to gain support,

benefited Pan-Canadian and Quebec feminist movements at both the federal and Quebec state levels. However, “Aboriginal women active in the ‘First Nations’ nationalist projects were not advantaged and continued to experience negative outcomes from the federal government’s neo-colonial laws”. (Vickers, 2011).

Territorial power-sharing provisions are often drafted with majorities and minorities that have mobilized around claims of territorial self-governance in mind (see Csörgő, Roseberry and Wolff, 2017). These are identity groups that are party to the conflict. It is therefore unsurprising that peace agreements scarcely provide for local minority women. Still, there are a few examples where territorial power-sharing arrangements include specific protections for local minority women in regional entities, and which go beyond basic equality provisions.

An unimplemented agreement relating to the Chittagong Hill Tracts in [Bangladesh](#) demonstrates the most substantive provision intended to include non-tribal women in a non-central institution (defined as “non-tribal permanent residents”: a person who is non-tribal but has legal land in the hill district and generally lives in the hill district at a specific address):

[Bangladesh/ Chittagong Hill Tracts, Agreement between the National Committee on Chittagong Hill Tracts Constituted by the Government and The Parbattya Chattagram Janasanghati Samity, 2 December 1997, B\) \(Kha\) Chittagong Hill Tracts Local Government Council/ Hill District Council, a\).](#)

There shall be 3 (three) seats for women in each of the Hill District Councils. One third (1/3) of these seats shall be for non-tribals.

However, reserving a small number of seats for women risks making it harder for them to push for representation beyond their prescribed allocation (see Gender Briefing Series: Women and Political Power-sharing).

Other peace agreement provisions for local minorities in federal, regional or local entities include:

- A commitment by the federal government of Assam and the Bodoland Autonomous Council (BAC) to protect “all rights and interests of the non-tribals as on date living in the BAC area”;
- Reserved seats for “Others” (those who do not identify as one of the three constituent peoples) on the Mostar City Council in the Federation of Bosnia and Herzegovina;
- Reserved seats for non-tribal representation on the Executive Council on the Darjeeling Gorkha Hill Council; and
- A commitment to adequate representation of non-Moro indigenous communities, women, settler communities, and other sectors within the Bangsamoro assembly and council of leaders.<sup>7</sup>

**While these agreements do not specifically provide for local minority women, they do suggest opportunities where (if the institutions are formed with measures for upholding women’s security) minority women could organize to push for representation within regional or local governments.** It is crucial to note however, as the example of the “Others” in Bosnia and Herzegovina demonstrates, that commitments to local minorities can move on and off peace process agendas, and that such mechanisms may not become institutionalized if they are not present in the ‘final’ comprehensive agreement of constitution.

### Political power-sharing at regional levels

**Second, there are potential opportunities for women to use ethnic or national identities at the regional level, in arrangements where political power-sharing is expressed through regional institutions.** Women can organize around several strategies when peace agreements provide for political power-sharing, and apply these when power-sharing mechanisms are then used at the regional level (for more detail see Gender Briefing Series: Women and Political Power-sharing). Strategies include:

- Building in quotas for local minority women as part of proportionality provisions;
- Forming coalitions with other marginalized groups discriminated against on grounds such as sexual orientation or race, to mobilize around issues of equality and assert claims for representation in regional institutions (Bell, 2018);
- Coordinating and organizing with women from different ethnic or national groups (e.g. the Northern Ireland Women’s Coalition) to push for inclusion



in the peace process, and subsequent regional institutions; and

- Pushing for liberal models of power-sharing that use open definitions of group identities, rather than corporate models that rely on strict definitions (Bell et.al, 2017).

### Questions regarding identity that women can ask of the peace process

- How do the proposed power-sharing arrangements use definitions of group identity? Are these definitions rigid or fixed and tied to identities which are not viewed as a matter of choice, or are they expressed in more open ways that could help group identity be re-shaped and re-interpreted over time?
- If definitions are open, can women use this to promote proportional representation that includes women from various backgrounds?
- If definitions are fixed, can women organize across communities to nominate women within proportional allocations for different identity groups in regional or local institutions?
- Do territorial power-sharing provisions explicitly reference local minorities? Do they reference women from these minorities? If not, can women organize to nominate local minority women in the allocations for minorities in regional institutions?

# PART III: STRATEGIES FOR CHANGE

## Dealing with technical detail

Territorial power-sharing and its design can be easy to understand within broad terms. Splitting territory and creating new regional or local institutions is visible and can appear quite dramatic. For women and gender advocates, however, the real implications for the treatment of women at each level will depend on complicated technical detail, often requiring specialist assistance to untangle to fully understand the impact on women.

The following list of technical details indicates some of the complexity involved:

- How are peace agreement pre-ambls written, and how can the concept of gender equality be part of the framing of any new conception of statehood?
- How and what quotas might usefully be pushed for when the peace process discusses new political institutions? How should they be set up legally to be effective? What expertise do women have at hand to test scenarios and understand how different proposals might affect women's representation?
- Where and how will territorial boundaries be drawn and re-drawn?
- How will decisions be made about which powers will be left with the central government and which powers will be devolved to regional governments, and how will this affect women's rights?
- What will be the basis for asserting women's and human rights at each level?
- How will re-drawing territorial boundaries create new minorities and majorities, and what are the implications for newly local minority women?

**One strategy is to identify women with an interest and aptitude for technical detail, who are also capable of taking forward concerns and proposals from among communities, and using these to craft suggestions for the technical details.** Decisions over the technical detail can become protracted, and once agreement on territorial power-sharing is agreed more broadly, it can be moved from the main political and military actors in the peace process to technical working groups (such as in the [Mindanao](#) peace process), where it might be more effective to push for women's inclusion, or to submit proposals.

## Dealing with differently placed women

Formulating a cohesive response among women to territorial power-sharing in a conflict-affected society is a difficult process. A woman from a territorially-concentrated and mobilized minority might experience devolution of power to local institutions as a form of liberation from a disinterested or repressive central government. Conversely, a woman in the same region who identifies as a member of a majority group at the central level may fear further withdrawal of the state and the adjustment to being a newly local minority. For one woman, the central government retaining a role in monitoring the country's human rights commitments may seem like an important gain, while for another it may feel like a subtle way to minimize the extent of devolved powers and territorial gains won through conflict.

These concerns obviously go beyond women, and many women have organized across communal divides before, during, and after conflict on a variety of issues (see Cockburn, 2007), without requiring that women play a collaborative role for the sake of cohesion, and recognizing that women from different nation-building projects may not wish to co-operate. Ultimately, creating spaces for dialogue which aim to build trust, and to discuss why different women might have different understandings of territorial power-sharing, are a critical way to facilitate further organizing and build cohesion.

# CONCLUSION

Territorial power-sharing may present women with a variety of opportunities to push for greater inclusion within post-conflict institutions. Conversely, it can also pose risks to women's fundamental rights and protections.

The important thing for women to consider in peace processes is that territorial power-sharing arrangements are not fixed, and do not function in a vacuum. As with other mechanisms for accommodating minority groups, the nuances of territorial power-sharing arrangements are tied into political processes across all levels of governance. The possibilities for engendering

territorial power-sharing greatly depend on various contextual factors which women in conflict-affected states are intimately aware of. Still, there are valuable lessons from other peace processes and territorially-divided states which may help women avoid the pitfalls of power-sharing when it is being negotiated.

# APPENDIX A: PEACE AGREEMENTS MENTIONED

Bangladesh/ Chittagong Hill Tracts, Agreement between the National Committee on Chittagong Hill Tracts Constituted by the Government and The Parbattya Chattagram Janasanghati Samity, 2 December 1997. <https://www.peaceagreements.org/view/238/>

Bosnia/Yugoslavia (former), Dayton Agreement on Implementing the Federation of Bosnia and Herzegovina, Dayton, 10 November 1995. <https://www.peaceagreements.org/view/2/>

Bosnia/ Yugoslavia (former), Framework Agreement for the Federation (Washington Agreement or Contact Group Plan), 1 March 1994. <https://www.peaceagreements.org/view/608/>

Bosnia/ Yugoslavia (former), Declaration Concerning the Constitution of the Federation of Bosnia and Herzegovina (with Proposed Constitution of the Federation of Bosnia and Herzegovina attached), 18 March 1994. <https://www.peaceagreements.org/view/1198/>

Colombia, Participación política: Apertura democrática para construir la paz, 6 November 2013. <https://www.peaceagreements.org/view/812/>

Colombia, Political Constitution of Colombia, 1 July 1991 <https://www.peaceagreements.org/view/163/>

Croatia, Basic Agreement on the Region of Eastern Slavonia, Baranja, and Western Sirmium ('The Erdut Agreement'), 12 November 1995. <https://www.peaceagreements.org/view/563/>

Guatemala, Agreement on the Social and Economic Aspects and Agrarian Situation, 6 May 1996. <https://www.peaceagreements.org/view/291/>

India/ Bodoland, Memorandum of Settlement ('Bodo Accord'), 20 February 1993. <https://www.peaceagreements.org/view/30/>

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India/ Darjeeling, Memorandum of Settlement, 6 December 2005. <https://www.peaceagreements.org/view/1717/>

Indonesia/ Aceh, Memorandum of Understanding between the Government of the Republic of Indonesia and the Free Aceh Movement (Helsinki MOU), 15 August 2005. <https://www.peaceagreements.org/view/450/>

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Nepal, Constitution of Nepal, 20 September 2015. <https://www.peaceagreements.org/view/1361/>

Papua New Guinea/ Bougainville, Bougainville Peace Agreement, 30 August 2001. <https://www.peaceagreements.org/view/312/>

Philippines/ Mindanao, Joint Technical Working Group Meeting on Territory, 6 February 2006. <https://www.peaceagreements.org/view/991/>

Philippines/ Mindanao, Framework Agreement on the Bangsamoro, 15 October 2012. <https://www.peaceagreements.org/view/867/>

Philippines/ Mindanao, Annex on Power-Sharing to the Framework Agreement on the Bangsamoro (FAB), 8 December 2013. <https://www.peaceagreements.org/view/868/>

Russia/ Chechnya, Draft Treaty on the Delimitation of Subjects of Jurisdiction and Powers between the Russian Federation Organs of State Power and the Chechen Republic Organs of State Power, 31 May 1996. <https://www.peaceagreements.org/view/371/>

Somalia, Provisional Constitution of the Federal Republic of Somalia, 1 August 2012. <https://www.peaceagreements.org/view/1360/>

Sudan/ Darfur, Darfur Peace Agreement, 5 May 2006. <https://www.peaceagreements.org/view/350/>

Sudan/ Eastern Sudan, Eastern Sudan Peace Agreement, 19 June 2006. <https://www.peaceagreements.org/view/373/>

Yemen, National Dialogue Outcomes Document, 25 January 2014. <https://www.peaceagreements.org/view/1400/>

# APPENDIX B: RESOURCES

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- PA-X Gender Peace Agreements Database, University of Edinburgh: [www.peaceagreements.org/wsearch](http://www.peaceagreements.org/wsearch).
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# ENDNOTES

- 1 For background and more information about each of these types of power-sharing see PA-X Research Report Power-sharing Series, [www.politicalsettlements.org/pax-series/](http://www.politicalsettlements.org/pax-series/).
- 2 This research draws on the PA-X Peace Agreements Database, a specially designed database of all peace agreements from 1990-2016 – [www.peaceagreements.org](http://www.peaceagreements.org) (public and fully searchable) – and a related database which breaks down further provisions on women and gender (PA-X Women, Girls and Gender: <https://www.peaceagreements.org/wsearch>).
- 3 For a comprehensive discussion of how gender relates to federalism see Vickers, J., “Is Federalism Gendered? Incorporating Gender into Studies of Federalism”, *Publius: The Journal of Federalism*, 43 (1) (2013), pp. 1-23.
- 4 For links to all Peace Agreement references, please see Appendix A.
- 5 Bosnia and Herzegovina provides an example of a peace process where international actors established early in the conflict that territorial power-sharing would be a key feature of any political settlement, with territorial divisions of power between the three main ethnic groups (constituent peoples) consistently proposed and adapted by major peace plans. For more on this see Wise, L, *Bosnia-Herzegovina Case Study*. Edinburgh: Global Justice Academy, University of Edinburgh, 2017. Available at: <http://www.politicalsettlements.org/publications-database/bosnia-herzegovina-case-study/>
- 6 Communities that compose less than 50 per cent of the total population of a territorial entity, and who may fear domination by the community which composes a local majority, even if their own community forms a country-wide majority. For more on local minorities in peace processes see Schou, A., “Conflict resolution attempts in self-determination disputes: the significance of local minority groups concerns in the Philippines and Sri Lanka”, *Ethnic and Racial Studies* 37 (2) (2012), pp. 302-321.
- 7 India/ Bodoland, Memorandum of Settlement (‘Bodo Accord’), 20 February 1993; India/ Darjeeling, Memorandum of Settlement, 6 December 2005; Bosnia/ Yugoslavia (former), Dayton Agreement on Implementing the Federation of Bosnia and Herzegovina, Dayton, 10 November 1995; Philippines/ Mindanao, Annex on Power-Sharing to the Framework Agreement on the Bangsamoro (FAB), 8th December 2013.





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